IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 35399 of 2007(L)

PETITIONER:

K.K.ANWAR, AGED 36 YEARS,
S/O. LATE A.M.KHADER, KANAVARA HOUSE,
ELOOR NORTH, UDYOGAMANDAL P.O., ERNAKULAM DIST.

BY ADV. SRI.K.K.ASHKAR
SMT.ASHIRA MOHAMED ASHROF

RESPONDENTS:

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1. THE REGIONAL TRANSPORT OFFICER,
ERNAKULAM.

2. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
PALARIVATTOM, ERNAKULAM DISTRICT.

3. OFFICE OF THE EMPLOYEES PROVIDENT FUND
COMMISSIONER, KOCHI-17, REPRESENTED BY
ITS ACCOUNTS OFFICER.

4. MILMA,
ERNAKULAM REGIONAL CO-OPERATIVE MILK PRODUCERS
UNION LTD.NO.E-150(D), ERNAKULAM DIARY,
P.B.NO.33, TRIPUNITHURA, REPRESENTED BY
ITS DIARY MANAGER.

R1 BY GOVT. PLEADER SRI GOVINDAN
R2 BY STANDING COUNSEL SRI P.RAMAKRISHNAN
R3 BY STANDING COUNSEL SRI S.GOPAKUMARAN NAIR
R4 BY STANDING COUNSEL SRI B.S.KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C) 35399 OF 2007

Dated: December 3, 2007

JUDGMENT

The relief sought for in this writ petition is to direct the 1st respondent to accept the tax in respect of the vehicle owned and possessed by the petitioner without insisting on the production of a clearance certificate from the 2nd respondent.

2. The basis of this claim is that the employees who are engaged by the petitioner for work are covered by the provisions contained in the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and therefore by virtue of the provisions contained in section 4 of the Motor Transport Workers' Welfare Fund Act , the petitioner is not liable for payment of contribution. Ext.P2 produced by the petitioner shows that the contribution is being paid in respect of 12 employees. If, as a matter of fact, the employees of the petitioner are covered by the provisions of the Employees' Provident Fund Act, the petitioner is entitled to be exempted from the provisions of the Welfare Fund Act. That being the position, in view of Ext.P2, the respondent cannot ask for remittance of welfare fund and obtain a clearance certificate from the 2nd respondent. Therefore, the petitioner is entitled to the relief sought for.

Accordingly, I dispose of this writ petition directing the 1st respondent to accept tax in respect of the vehicle owned by the petitioner on production of a copy of this judgment.

ANTONY DOMINIC
JUDGE

mt/-